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 8 Attorney for Aloysius L. Rhodes, Plaintiff.  
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UNITED STATES DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA

ADR

C07-03754 B7

NO. \_\_\_\_\_

COMPLAINT FOR DAMAGES  
(42 U.S.C. Section 1983)

11 ALOYSIUS L. RHODES, )  
 12 Plaintiff. )  
 13 . )  
 14 vs. )  
 15 MARK HEADRICK, )  
 16 Defendant. )  
 17 \_\_\_\_\_

## DEMAND FOR JURY TRIAL

Plaintiff alleges:

1. This is an action brought under 42 U.S.C. Section 1983 to recover damages against defendant for violation of plaintiff's rights under to be safe and secure in his home and surroundings as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.
2. The jurisdiction of this court is predicated on 28 U.S.C. Section 1331 and Section 1333.
3. Plaintiff, Aloysius L. Rhodes, is, and at all times mentioned in this complaint was, a citizen of the United States, and a resident of Alameda County..

GO 44 SEC. N  
NOTICE OF ASSIGNMENT  
TO MAGISTRATE JUDGE SENT

26

COMPLAINT

PPpp

1       4. Defendant, Mark Headrick, was at all times mentioned in this complaint a resident of  
2 Alameda County, California. Venue is therefore proper under 28 U.S.C. Section 1391(b).

3       5. A substantial part of the events giving rise to this action occurred in Alameda County,  
4 California. Venue is therefore proper under 28 U.S.C. Section 1391(b).

5       6. Defendant was at all time mentioned in this complaint a law enforcement officer working  
6 as an officer with the California Highway Patrol under Badge No. 017344 assigned to the  
7 Hayward, California Highway Patrol station.

8       7. Defendant was at all times mentioned in this complaint, acting in the course and scope of  
9 employment with the California Highway Patrol.

10      8. Defendant was, at all times mentioned in this complaint, acting under color of state law.

11      9. Defendant is sued in his individual capacity.

12      10. On or about September 6, 2003, Plaintiff, an African American Male and his wife,  
13 Nicollette L. Rhodes, a female of Latin ethnicity (hereafter Wife) were riding in plaintiff's 1999  
14 Cadillac SUV on their way home after a night of bowling with friends and were proceeding on  
15 Freeway 580 toward Hayward. At approximately 2:00 am the Wife became upset and plaintiff  
16 pulled the vehicle off the road onto the emergency lane to let her out of the vehicle to cool off  
17 and put on his hazard lights. Subsequently a California Highway Patrol vehicle appeared and  
18 pulled along side plaintiff's vehicle. Said vehicle was manned by the defendant and another  
19 officer, named Donald Harper, both white. At this time the Wife had gotten back into plaintiff's  
20 vehicle. Defendant claimed that plaintiff's vehicle was not fully in the emergency lane which  
21 was not true. Then he began to question the Wife about her relationship with the plaintiff and  
22 inquired as why she was crying. The Wife repeatedly told the defendant that it was a marital  
23 problem, but the defendant persisted in the line of questioning but not getting his desired  
24 response.

25      Thereupon, defendant questioned the plaintiff as to whether he has been drinking to which  
26

1 the plaintiff stated that he had one drink at the bowling alley. Defendant thereupon stuck his  
2 head into the vehicle and claimed that he smelled alcohol and ordered the plaintiff out of the  
3 vehicle. Plaintiff was required to perform field sobriety tests and to be tested by a breathalyzer  
4 never informing plaintiff as to how he performed. Defendant then placed plaintiff in the CHP  
5 patrol car and took him to a CHP station in Castro Valley where further breath tests were  
6 attempted. Thereupon, plaintiff was taken to the Santa Rita County Jail and placed under arrest.  
7 As a result of this arrest plaintiff lost the use of his license for a period of one year depriving him  
8 of his livelihood as a security guard.

9 Plaintiff pleaded not guilty to the charges lodged against him and after several  
10 continuances, the charges were dropped and the case dismissed.  
11

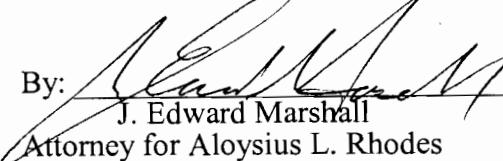
12 11. In acting as alleged in this complaint, defendant acted knowingly, willfully, and  
13 maliciously, and with reckless and callous disregard for plaintiff's federally protected rights.

14 WHEREFORE , plaintiff prays judgment against defendant as follows:

15 1. For compensatory damages, in an amount to be determined according to proof at trial;  
16 2. For punitive damages, in an amount to be determined according to proof at trial;  
17 3. For reasonable attorney's fees, pursuant to 42 U.S.C. Section 1988;  
18 4. For costs of suit incurred in this action; and  
19 5. For such other and further relief as the Court deems proper.

20 Dated: 7-17-07  
21

22 Respectfully submitted,  
23 Law Offices of J. Edward Marshall

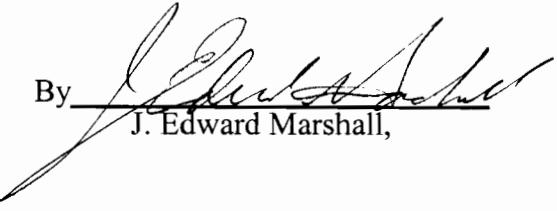
24 By:   
25 J. Edward Marshall  
26 Attorney for Aloysius L. Rhodes

1 DEMAND FOR JURY TRIAL  
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3 Plaintiff, Aloysius L. Rhodes hereby demands a jury trial.  
4 Dated: 7-17-07  
5

6 Respectfully submitted  
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8 Law Offices of J. Edward Marshall,  
9 Attorney for Plaintiff, Aloysius L. Rhodes  
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11 By   
12 J. Edward Marshall,  
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